

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

**UNITED STATES OF AMERICA,**

Case No. 2:24-cr-00001-JCM-BNW

Plaintiff,

## ORDER

V.

ELIJAH SYLEE SHELTON,

## Defendant.

10 Before the Court is the Government's Motion for Partial Reconsideration. ECF No. 91.  
11 The Motion asks the Court to reconsider, or clarify, its discussion and interpretation of Det.  
12 Diaz's testimony in its Report and Recommendation (ECF No. 58) on Elijah Shelton's Motion to  
13 Suppress. *Id.* But because the Government has not demonstrated that newly discovered evidence,  
14 clear error, or an intervening change in controlling law justifies reconsideration—and motions for  
15 reconsideration are disfavored—the Court denies the Motion.

## I. BACKGROUND

17       Shelton filed a Motion to Suppress seeking to exclude evidence seized from his apartment  
18 and his girlfriend’s red BMW. ECF No. 29. Following briefing and an evidentiary hearing, the  
19 Court recommended that the red BMW’s evidence be suppressed because it found that the officer  
20 who stopped the car, Det. Diaz, did not reasonably identify Shelton as the passenger before the  
21 red BMW’s stop. *See generally* ECF No. 61. In reaching its conclusion, the Court considered  
22 testimony from the lead case agent, Det. Perez, who discussed the investigation of Shelton and  
23 recounted the victims’ allegations, the facts he corroborated with Shelton’s probation officer, his  
24 debriefing of Det. Diaz before surveillance, surveillance leading up to the red BMW’s stop and  
25 Shelton’s arrest, and his preparation of the Declaration of Arrest, a report written the day of the  
26 incident that detailed the pertinent events and observations. *Id.* at 2–6, 13–15. Because Det. Perez  
27 was stationed in front of Shelton’s apartment during surveillance and did not witness the red  
28 BMW’s return, the Court also heard testimony from Det. Diaz regarding his involvement in the

1 investigation, his debrief with Det. Perez, and his observations prior to stopping the red BMW. *Id.*  
 2 at 4–8, 13–18. The description of the BMW’s return in the Declaration of Arrest, the information  
 3 known to the officers prior to the stop, and the quick timing of events on the day of surveillance  
 4 also factored into the Court’s decision. *Id.* at 13–18. Ultimately, the Court concluded that based  
 5 on the totality of circumstances, it was more likely that Det. Diaz did not clearly see Shelton  
 6 before he stopped the red BMW and thus lacked reasonable suspicion for the stop. *Id.*

7 Following the Court’s Recommendation, the Government filed this Motion asking the  
 8 Court to reconsider or clarify its interpretation of Det. Diaz’s testimony. ECF No. 61. At a  
 9 hearing on the Motion, the Government requested that the Court amend its Recommendation to  
 10 omit portions of its discussion and also clarify its holding to state that there was insufficient  
 11 evidence to demonstrate that Det. Diaz saw Shelton before he stopped the car. *See* ECF No. 72.  
 12 The Government represented that such revisions would not alter the Court’s holding and  
 13 submitted that it would not object to the Court’s reasonable suspicion finding. *See id.* After some  
 14 discussion, defense counsel<sup>1</sup> was willing to accept modification of the Court’s Recommendation  
 15 in exchange for the Government’s waiver of its objections. *See id.*

## 16 II. ANALYSIS

17 Having considered the Government’s brief as well as the representations by counsel at the  
 18 hearing, the Court finds that the Government has not demonstrated that newly discovered  
 19 evidence, clear error, or an intervening change in controlling law justifies reconsideration. *See*  
 20 *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009);  
 21 LR 59-1. Although defense counsel agreed to amendment in exchange for waiver of the  
 22 Government’s objections, because motions for reconsideration are disfavored, and the  
 23 Government has not demonstrated that reconsideration is necessary, the Court denies the Motion.  
 24 Moreover, the Recommendation (as written) already finds there was insufficient evidence to  
 25 demonstrate that Det. Diaz saw Shelton before he stopped the car. ECF No. 58 at 17–18. If the  
 26

---

27 <sup>1</sup> At the time of the hearing, Shelton’s continued representation by the Office of the Federal  
 28 Public Defender was in flux. *See* ECF No. 63. Shelton requested a status conference with the  
 Court to discuss seeking new representation, but the Court has yet to hear such motion.

1 Government feels it necessary to object to the Court's Recommendation in light of this Order, it  
2 may file an appropriate motion seeking leave to do so.

3 **III. CONCLUSION**

4 **IT IS THEREFORE ORDERED** that the Government's Motion for Partial  
5 Reconsideration (ECF No. 61) is **DENIED**.

6

7 DATED this 16th day of September 2024.

8   
9 BRENDAG WEKSLER  
10 UNITED STATES MAGISTRATE JUDGE

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28